

## **REMARKS**

Claims 9-12 and 22-27 are pending in this application. Claims 23-27 stand rejected under 35 USC § 102 as being anticipated by Potter, and claims 9-12 and 22 stand rejected under 35 USC § 103 as being unpatentable over Potter in view of Sadr.

### **Section 102 Rejections**

Claims 23-27 were rejected under 35 USC § 102 as being anticipated by Potter. Potter discloses a fitting for a plastic container 10. The fitting includes hollow inner and outer components 40, 20 between which a portion of the wall of the plastic container itself is sandwiched. According to Potter, this permits a single barrier layer 51 of the container wall 48 to be continuous between the container and the fitting. In other words, the inner and outer components 40, 20 of the fitting in Potter do not include any vapor barrier layer themselves. Rather, the fitting disclosed in Potter utilizes the plastic container's barrier layer and hence, there is only a single vapor barrier layer which is common to both the plastic container and the fitting.

Independent claim 23, on the other hand, recites a fill nipple that is separate from the shell and includes a vapor barrier layer between inner and outer layers of the fill nipple. The vapor barrier layer of the separate fill nipple overlies the vapor barrier layer of the shell along the entire extent of the overlap of the fill nipple and shell providing at least two vapor barrier layers along the entire extent of the overlap of the fill nipple and shell. As noted above, Potter merely discloses sandwiching a portion of a container between inner and outer fitting components 20, 40, so that the vapor barrier layer of the container itself is sandwiched between these components. Accordingly, Potter cannot

anticipate claim 23 which calls for a shell having a vapor barrier layer and a fill nipple having a vapor barrier layer that overlies the fuel tank barrier layer, providing two vapor barrier layers along the extent of the overlap of the fill nipple and shell. Indeed, Potter teaches directly away from such a construction and arrangement by requiring that the barrier layer of its container wall is continuous from the container to inside the fitting. See e.g. the abstract and paragraph 34, especially the last sentence thereof. For at least these reasons, Potter cannot anticipate claim 23 and because Potter actually teaches away from the construction and arrangement recited in claim 23, claim 23 defines patentable subject matter over all cited art.

#### **Dependent Claims 24 and 25**

Each of dependent claims 24 and 25 is dependent upon claim 23 and therefore is patentable for at least those reasons that claim 23 is patentable. Further, the Examiner has provided no factual support for the rejection of claim 24 as set forth in paragraph 6 of the instant Office Action. Rather, the Examiner merely recites figures 1-3 of Potter, none of which support the stated rejection. Indeed, the Examiner has not identified any structure or portion of these figures which allegedly would anticipate the construction and arrangement recited in claim 24. With respect to claim 25, applicant respectfully disagrees with the Examiner's assertion in paragraph 7 of the instant Office Action. The top flange in figure 6 of Potter does not extend radially inwardly but rather, extends in the same radially outwardly direction as the other flanges of the multiple piece fitting. If the Examiner disagrees, Applicant respectfully requests that the Examiner provide a marked

up copy of figure 6 of Potter clearly showing how the Examiner is construing this figure. Regardless, Potter cannot anticipate claim 25.

### **Claims 26 and 27**

Independent claim 26 has been amended to recite that the shell includes a vapor barrier layer and the fill nipple includes a vapor barrier layer that is separate and spaced from the vapor barrier layer of the shell. None of the cited references teach, disclose or even suggest such a construction or arrangement. Indeed, Potter teaches directly away from such a construction or arrangement by teaching that a single vapor barrier layer of a fuel container continuously extend to a fitting such that the plastic container and fitting share a common vapor barrier layer. For at least these reasons, claim 26, as amended, defines patentable subject matter over the cited art.

Independent claim 27 is patentable over all cited art for at least the reason that it discloses a separate fill nipple having a vapor barrier layer that overlies the fuel tank vapor barrier layer along the entire extent of the overlap of the fill nipple and shell providing two vapor barrier layers along the entire extent of the overlap of the fill nipple and shell. Neither cited reference teaches, discloses or even suggests such a construction and arrangement. For at least these reasons, independent claim 27, defines patentable subject matter over all cited art.

### **Section 103 Rejections**

Claims 9-12 and 22 were rejected under 35 USC § 103 over Potter in view of Sadr.

Independent claim 9 has been amended to recite that the vapor barrier layer of the fill nipple is separate and spaced from the vapor barrier layer of the shell. Accordingly, for at least those reasons set forth with regard to claim 26, independent claim 9, as amended, defines patentable subject matter over all cited art.

#### **Dependent Claims 10-12 and 22**

Each of dependent claims 10-12 and 22 is dependent upon claim 9 and defines patentable subject matter for at least those reasons that claim 9 is patentable. These claims also are patentable for the additional points of novelty set forth therein. For example, claim 11 recites that one end of the fill nipple is defined in part by a radially outwardly extending flange that presents at least a portion of the inner surface of the fill nipple for attachment to the shell. Neither Potter nor Sadr discloses or even suggests an inner surface of a fill nipple that is attached to a shell as recited in claim 11. Rather, in Potter, the inner surface of the fitting is a straight cylindrical surface that is entirely spaced from and is not itself attached to the plastic container. Accordingly, for at least these reasons claim 11 defines patentable subject matter over the cited art. Further, claim 22 recites that the shell includes an outer layer and an inner layer, and the inner layer of the fill nipple is attached to the outer layer of the shell. Again, no cited art teaches or discloses an inner layer of a fill nipple that is attached to an outer layer of a shell as recited in claim 22. Rather, in Potter, the inner layer of the fill nipple is attached to an inner layer of the plastic container (50 in fig. 6). For at least these reasons, claim 22 is patentable over all cited art.

### CONCLUSION

Each of claims 9-12 and 22-27 is believe to define patentable subject and to be in condition for allowance. Reconsideration and allowance of these claims are respectfully requested.

If, after considering this Response, the Examiner is of the view that any of the claims are not allowable, a telephone interview with applicants' undersigned attorney Matthew J. Schmidt is requested so that immediate consideration can be given to any further amendments suggested by the Examiner or otherwise needed to place all of the claims in a condition for allowance. The Examiner is asked to either initiate or schedule this interview by telephoning Matthew J. Schmidt at 248-689-3500, Ext. 150, who normally can be reached Monday through Friday between 9:00 A.M. and 5:00 P.M.

No fees are believed to be due for this Office Action. However, any fees due can be charged, and any excess fee can be credited, to our Deposit Account 50-0852.

Respectfully submitted,

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By



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**February 11, 2008**